

**REMARKS**

This amendment responds to the Office Action mailed on September 8, 2006. Filed concurrently herewith is a Request for a One-Month Extension of Time which extends the shortened statutory period for response to expire on January 8, 2006. Accordingly, applicant respectfully submits that this response is being timely filed.

Claims 1-29 are pending in the present application. Claims 1, 7, 9 and 24 have been amended to more clearly define protection for which Applicant is entitled. Thus, claims 1-29 remain pending, and applicant believes these claims are in proper condition for allowance for the reasons set forth below.

**Rejections of claims 1, 2, 4-12, and 21-29 under 35 U.S.C. § 102(e)**

The Examiner rejected 1, 2, 4-12 and 21-29 under 35 U.S.C. § 102(e) as being obvious over U.S. Patent No. 6,018,768 to Ullman et al. ("Ullman") in view of U.S. Patent No. 6,144,991 to England ("England"). These rejections are respectfully traversed and reconsideration is requested based on the following remarks.

The claims have been amended to clarify that Ullman does not teach a "code fragment" as recited in the claims. The claims have been amended solely for clarification purposes and not for any reason related to patentability. Before proceeding to a discussion of the claims, Applicant would like to provide a brief discussion on Ullman.

Ullman is directed to a "computer based system for receiving a video program along with embedded uniform resource locators (URLs) -- which direct the user's computer 16 to address locations, or Web sites, on the Internet 20 to retrieve related Web pages." See Ullman, col. 4, lines 44-49. Under the Examiner's interpretation, the URL of Ullman is a code fragment. See Office Action, page 2. While Applicant disagrees with the Examiner's interpretation, even if the Examiner's interpretation were correct, Ullman at most would teach a computer that receives a code fragment which instructs the computer to remotely obtain a web page through the Internet.

As will be discussed, the code fragment recited within the claims allows the computer to perform an exclusively local interaction to modify a locally stored document.

### Claim 1

Amended independent claim 1 makes clear that the enhanced broadcasting system has “a storage medium associated with the computer that stores a document.” Further, amended independent claim 1 makes clear that the computer executes software for “locally modifying the document in an exclusively local interaction based on the interpreted instruction.” As described on page 4, lines 9-14 of the present specification:

In the exclusively client-side interaction feature of the present invention, the user receives information from a broadcast and is not required to return information to a broadcaster or to any other remote location. Instead, a custom software application is placed on the user's computer to act as an interface and to facilitate the interactive experience locally. Thus, the interactivity occurs client side, in contrast to prior art interactivity which requires users to interact directly with the [remote] server. [emphasis added]

Under the Examiner's interpretation of a code fragment, a computer executes an http instruction for a URL in order to remotely obtain a document through the Internet. However, Ullman's teaching of only delivering website addresses (URLs) to a user is precisely the type of prior art interactivity that one feature of the present invention attempts to avoid by providing exclusive client-side interactivity in modifying a local document, as recited in the present claims. Ullman requires users to interact directly with a remote server to retrieve web pages. In contrast, it is described in the present specification that “the code fragments of the present invention do not contain uniform resource locators (URLs).” *See page 6, lines 19-21 of the present specification.*

At most, Ullman teaches displaying web pages that are remotely obtained. Ullman does not teach displaying a document, locally modifying the document in an exclusively local interaction based on an interpreted instruction from the a code fragment, and then subsequently displaying the locally modified document.

It should be noted that the Federal Circuit has clarified certain rules of claim interpretation by finding that reliance on the specification "is always relevant to the claim construction analysis. Usually it is dispositive; it is the single best guide to the meaning of a disputed term." *Phillips v. AWH Corp.*, 415 F.3d 1303, 1315 (Fed. Cir. 2005). The Court further stated that "[p]roperly viewed, the 'ordinary meaning' of a claim term is its meaning to the ordinary artisan after reading the entire patent." *Phillips*, 415 F.3d at 1321.

The specification of the present application clearly recites that "code fragments" as recited in the claims "do not contain uniform resource locators (URLs)." The citation of Ullman as teaching the claimed "code fragments" is clearly improper, as applicant specifically distinguished its claimed code fragments from the URLs of Ullman. The URLs of Ullman require the remote retrieval of web pages and do not provide for "locally modifying the document in an exclusively local interaction based on the interpreted instruction," as recited in amended independent claim 1.

In addition, the combination of England with Ullman does not cure Ullman's shortcomings. As a preliminary matter, the motivation for the combination suggested in the Office Action is inadequate. With respect to the §103 rejections recited in the Office Action, there are a number of evaluations required under Section 103. In considering motivation in the obviousness analysis, the general problem that confronted the inventor before the invention was made should be examined. *In re Kahn*, 441 F. 3d 977, 988 (Fed. Cir. 2006).

Thus, in analyzing the prior art under Section 103 of the Act, the problem confronted by the present inventor must be clearly comprehended and that must be compared or contrasted, as the case may be, with the problems addressed by the prior art. Pursuing further the "problem" analyses required under the "motivation-suggestion-teaching" test for obviousness under Section 103 of the U.S. Patent Act, the applicability of any reference against the claims of a pending U.S. patent application requires compliance with *In re Kahn*, where it is stated that:

"Therefore, the 'motivation-suggestion-teaching' test asks not merely what the references disclose, but whether a person of ordinary skill in the art, possessed with the understandings and knowledge reflected in the prior art, and motivated by the general problem facing the inventor, would have been led to make the combination recited in the claims." [emphasis added]

*Id.* One problem solved in the present application by the code fragments is that they provide an exclusively client-side interactive feature in modifying local documents stored on the client computer, in contrast to prior art interactivity that required users to interact directly with a remote server. This problem is not contemplated by the combination of Ullman and England, as Ullman is directed to the very prior art interactivity that the present application avoids, namely the use of URLs that require a user to remotely retrieve a web page. As such, Ullman does not contemplate modifying local documents using exclusively client-side interactivity. Because there is no motivation sufficient to address the problems confronted by the present application, one skilled in the art would not be compelled to make the combination of prior art references suggested in the Office Action. In fact, one skilled in the art would actually be directed away from the teachings of Ullman to solve this very problem, as the present specification repeatedly states that URLs are not included in the code fragments of the present invention.

Accordingly, it is respectfully submitted that claim 1 is in condition for allowance, and it is earnestly solicited that the rejection of claim 1 be withdrawn.

#### **Claims 2-5 and 21-23**

Claims 2-5 and 21-23 depend from claim 1. Accordingly, it is respectfully submitted that claims 2-5 and 21-23 are in condition for allowance for the same reasons set forth above in distinguishing claim 1 over the cited prior art of record. Therefore, it is respectfully requested that the rejections of claims 2-5 and 21-23 be withdrawn.

#### **Claims 7 and 8**

Amended claim 7 makes clear that the enhancement for the content of an audio and video broadcast includes a code fragment for updating a screen display based upon an exclusively local

interaction and interpretation of an instruction of the code fragment. For the reasons discussed above, Ullman does not teach or suggest “locally modifying a document based an exclusively local interaction of the interpreted instruction” and “displaying modified document on a screen display which is updated based upon the interpreted instruction on a second display screen at the common time.” Reconsideration is requested.

#### Claim 9

Amended claim 9 makes clear that the method for providing enhanced television broadcasting includes “locally modifying a document in an exclusively local interaction based on the interpreted instruction” and “displaying modified document on a screen display which is updated based upon the interpreted instruction on a second display screen at the common time.” For the reasons discussed above, the combination of Ullman and England fail to teach or suggest “locally modifying a document in an exclusively local interaction based on the interpreted instruction” and “displaying modified document on a screen display which is updated based upon the interpreted instruction on a second display screen at the common time.”

Accordingly, it is respectfully submitted that claim 9 is in condition for allowance, and it is earnestly solicited that the rejection of claim 9 be withdrawn.

#### Claims 10-12

Claims 10-12 depend from claim 9. Accordingly, it is submitted that claims 10-12 are in condition for allowance for the same reason set forth above. Reconsideration of claims 10-12 is respectfully requested.

#### Claim 24

Amended claim 24 makes clear that the enhanced broadcasting system includes a “computer configured to receive a code fragment and execute at least one instruction in the code fragment to locally modify a document stored at the computer in an exclusively local interaction based on the at least one instruction” and “a second display, connected to the computer, having a

screen display that displays the document at a first time and displays a subsequent modification to the document based upon the computer's execution of the at least one instruction in the code fragment at a second time." For the reasons discussed above, the combination of Ullman and England do not teach a "computer configured to receive a code fragment and execute at least one instruction in the code fragment to locally modify a document stored at the computer in an exclusively local interaction based on the at least one instruction" and "a second display, connected to the computer, having a screen display that displays the document at a first time and displays a subsequent modification to the document based upon the computer's execution of the at least one instruction in the code fragment at a second time."

Accordingly, it is respectfully submitted that claim 24 is in condition for allowance, and it is earnestly solicited that the rejection of claim 24 be withdrawn.

#### **Claims 26-29**

Claims 26-29 depend from claim 24. Accordingly, it is submitted that claims 26-29 are in condition for allowance for the same reason set forth above. Reconsideration of claims 26-29 is respectfully requested.

#### **Rejections of claims 4, 8 and 25 under 35 U.S.C. § 103(a)**

The Examiner rejected claims 4, 8, and 25 under 35 U.S.C. § 103(a) over Ullman. Specifically, the Examiner takes official notice that "utilizing JavaScript applets are notoriously well known in the art." Further, the Examiner states that "it would have been obvious to one of ordinary skill in the art to modify Ullman to utilize JavaScript to create more interactive and aesthetically pleasing web content."

Claims 4, 8, and 25 are directed to a code fragment being written in JavaScript. According to the Examiner, a URL is a code fragment. It is submitted that one of ordinary skill in the art would not write a URL in JavaScript. Even if one of ordinary skill in the art modified Ullman to have JavaScript, at most, the content would be written in JavaScript. In other words, the item that the Examiner asserts is a code fragment in Ullman, i.e., the URL, would not be

written in JavaScript. Therefore, even if Ullman were modified by one of ordinary skill in the art to include JavaScript, Ullman still would not teach a code fragment written in JavaScript.

In addition, claims 4 and 8 depend from amended independent claim 1 while claim 25 depends from amended claim 24. Accordingly, claims 4, 8, and 25 are in condition for allowance for the reasons discussed above. Therefore, it is respectfully requested that the rejections of claims 4, 8, and 25 be withdrawn.

#### **Rejection of claim 3 under 35 U.S.C. § 103(a)**

The Examiner rejected claim 3 under 35 U.S.C. § 103(a) over Ullman in view of U.S. Patent No. 6,173,317 to Chaddha et al. ("Chaddha"). Claim 3 depends from amended independent claim 1. Accordingly, claim 3 is in condition for allowance for the reasons discussed above. Therefore, it is respectfully requested that the rejections of claims 4, 8, and 25 be withdrawn.

#### **Rejections of claims 13-20 under 35 U.S.C. § 103(a)**


The Examiner rejected claims 13-20 under 35 U.S.C. § 103(a) over Ullman in view of U.S. Patent No. 6,340,159 to Giangrante ("Giangrante"). Claims 13-20 depend from amended independent claim 1. Accordingly, claims 13-20 are in condition for allowance for the reasons discussed above. Therefore, it is respectfully requested that the rejections of claims 4, 8, and 25 be withdrawn.

#### **Conclusion**

It is respectfully submitted that all of the Examiner's objections have been successfully traversed and that the application is now in order for allowance. Accordingly, reconsideration of the application and allowance thereof is courteously requested.

The Director is authorized to charge any additional fee(s) or any underpayment of fee(s), or to credit any overpayments to **Deposit Account Number 50-2638**. Please ensure that Attorney Docket Number 54317-016800 is referred to when charging any payments or credits for this case.

Respectfully submitted,



Bradley D. Blanche  
Reg. No. 38,387

Date: January 5, 2007

Customer Number 46560  
GREENBERG TRAURIG, LLP  
2450 Colorado Avenue, Suite 400E  
Santa Monica, CA 90404  
Phone: (310) 586-7700  
Fax: (310) 586-7800  
E-mail: laipmail@gtlaw.com

OC 286108869v2 1/4/2007